

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

PROCEDURE TO BE FOLLOWED ON MOTIONS FOR  
INJUNCTIVE RELIEF

I. NOTICE

- A. It is the obligation of the movant to give actual and immediate notice to the opposing party of the filing of the motion and of the date set for a hearing, if any.
- B. The movant must provide the opposing party promptly with copies of all materials filed.
- C. Failure to comply with provisions A and B may result in denial of the motion on that ground alone.

II. MOVANT'S OBLIGATIONS

- A. It is the movant's obligation to establish the factual basis for a grant of relief.
  - 1. In establishing the factual basis necessary for a grant of the motion, the movant may elect to serve and file:
    - a. A stipulation of those facts to which the parties agree;
    - b. A statement of record facts proposed by the movant;
    - c. A statement of those facts movant intends to prove at an evidentiary hearing; or
    - d. Any combination of a, b and c.
  - 2. Whether a movant elects a stipulation or a statement of proposed facts, it is movant's obligation to present no more and no less than the set of factual propositions that movant considers necessary to a decision in

movant's favor.<sup>1</sup>

- a. The factual propositions are to be set forth in numbered paragraphs, the contents of each of which shall be limited as far as practicable to the statement of a single factual proposition.
  - b. At the close of each numbered paragraph shall be set forth one or more references to the source of the proposition (whether pleadings,<sup>2</sup> deposition transcripts, affidavits,<sup>3</sup> exhibits or testimony to be adduced at the evidentiary hearing).
- B. The movant is directed to serve and file a statement of the conclusions of law proposed by the movant, in numbered paragraphs.
  - C. The materials in support of the motion for injunctive relief as specified in IIA and IIB shall be served and filed with the supporting brief.
  - D. If, when the movant's submission is filed, the court finds that it does not comply substantially with the requirements set forth above, in its discretion, the court may deny summarily the motion for injunctive relief, or may cancel the or continue the hearing on the motion, if any.

### III. RESPONDENT'S OBLIGATIONS

- A. When a motion and supporting materials and brief have been served and filed in compliance with II, above, the opposing party shall serve and file the following:

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<sup>1</sup>The factual propositions should include all of the "basic" facts necessary to a decision on the motion, including those going to jurisdiction, to the identity of the parties, and to the background of the dispute.

<sup>2</sup>The pleadings are not evidence. Therefore, facts may not be proposed from the pleadings unless the factual assertion made in a pleading has been stipulated to by the opposing party in a responsive pleading.

<sup>3</sup>Affidavits must be made on personal knowledge setting forth such facts as would be admissible in evidence, and showing affirmatively that the affiant is competent to testify to the matters stated therein.

1. Such affidavits and other documentary evidence which the party may elect to serve and file in opposition to the motion.
  2. A response to the movant's statement of proposed findings of fact.
    - a. With respect to each numbered paragraph of the movant's proposed findings of fact, the opposing party shall state clearly whether there is a dispute as to the whole or a part of the factual proposition; if the dispute goes only to a part of the proposition, the response shall identify precisely that part which the party disputes.
    - b. With respect to any paragraph as to which it is contended that there is a dispute, the response shall refer to the evidentiary matter of record or testamentary evidence to be adduced at the hearing that, in the opposing party's opinion, will refute the proposition contained in that paragraph.
  3. A response to the movant's proposed conclusions of law.
    - a. With respect to each such numbered proposed conclusion, the said response shall state clearly whether the said conclusion is agreed to or disputed in whole or in part; if the dispute is partial, the response shall state precisely which portion of the proposed conclusion is disputed.
    - b. If an opposing party believes that the motion for injunctive relief must fail because of conclusions of law not stated by movant, that party may state such other conclusions of law.
- B. The response in the form required by III, above, shall be served and filed together with a brief in opposition to the motion for injunctive relief no later than ONE WEEK after service of the motion and supporting papers on the opposing party.
- C. The court does not consider that it is under any obligation to search the record for factual matters that might support either the grant or the denial of the motion. It is the duty of the parties to bring to the court's attention all factual and legal matters material to the resolution of the issues in dispute.